No. 83-1654

In The

Supreme Court of the United States

October Term, 1983

CRAIG MEHRENS,

Petitioner,

v.

THE STATE OF ARIZONA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS, STATE OF ARIZONA, DIVISION ONE

BRIEF IN OPPOSITION

THOMAS E. COLLINS
MARICOPA COUNTY ATTORNEY

JOSEPH L. BROWNLEE
DEPUTY COUNTY ATTORNEY
Counsel of Record

JOEL M. GLYNN
DEPUTY COUNTY ATTORNEY

K. C. SCULL
DEPUTY COUNTY ATTORNEY

101 West Jefferson Street
Phoenix, Arizona 85003
(602) 262-2581

Attorneys for Respondent State of Arizona

QUESTIONS PRESENTED

I

DOES THE EXECUTION OF A SEARCH WARRANT ON A NON-SUSPECT ATTORNEY'S BRIEFCASE FOR INCRIMINATING LETTERS AUTHORED BY THE CLIENT TO A THIRD PARTY VIOLATE THE REASONABLENESS CLAUSE OF THE FOURTH AMENDMENT, THE CLIENT'S SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, AND THE ATTORNEY-CLIENT PRIVILEGE?

II

DOES THE FOURTH AMENDMENT PERMIT "PROSPECTIVE" OR "ANTICIPATORY" WARRANTS, THAT IS, THE ISSUANCE OF A SEARCH WARRANT FOR ITEMS STATED IN THE WARRANT, WHEN THE AFFIDAVIT ESTABLISHES THAT THE ITEMS WOULD BE SUBJECT TO SEIZURE AT A PARTICULAR PLACE AND AT A REASONABLE TIME IN THE FUTURE?

PARTIES INVOLVED

The caption of the case before this Court contains names of all parties to the proceeding whose judgment is sought to be reviewed.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED I

PARTIES INVOLVED I

TABLE OF AUTHORITIES IV

JURISDICTION 2

CONSTITUTIONAL PROVISIONS INVOLVED 2

STATEMENT OF THE CASE 2

REASONS FOR DENYING THE WRIT 7

I THE ARIZONA DECISION THAT THE EXECUTION OF A SEARCH WARRANT ON A NON-SUSPECT ATTORNEY'S BRIEFCASE FOR INCRIMINATING LETTERS AUTHORED BY HIS CLIENT TO A THIRD PERSON DOES NOT VIOLATE THE ATTORNEY-CLIENT PRIVILEGE IS ACCURATE AND CORRECT AND IS CONSISTENT WITH PREVIOUS OPINIONS FROM THIS COURT. 7

II ARIZONA'S DECISION IS CORRECT AND IS CONSISTENT WITH THIS COURT'S HOLDING IN *FISHER V. UNITED STATES,* 425 U.S. 391, 96 S. Ct. 1569, 48 L. Ed. 2d 39 (1976). 10

III THE FOURTH AMENDMENT WARRANT PROCESS PERMITS THE ISSUANCE OF ANTICIPATORY SEARCH WARRANTS AT A TIME PRIOR TO THE ACTUAL ARRIVAL OF THE MATTER TO BE SEIZED AT THE PREMISES. 13

CONCLUSION 15

TABLE OF AUTHORITIES

Cases: *Page*

Berger v. New York,
388 U.S. 41, 87 S. Ct. 1873,
18 L. Ed. 2d 1040 (1967) 13

Fisher v. United States,
425 U.S. 391, 96 S. Ct. 1569,
48 L. Ed. 2d 39 (1976) 8,10,11

Johnson v. United States,
288 U.S. 457, 33 S. Ct. 572,
57 L. Ed. 919 (1913) 9

Katz v. United States,
389 U.S. 347, 88 S. Ct. 507,
19 L. Ed. 2d 576 (1967) 13,15

Mehrens v. State,
___ Ariz. ___, 675 P.2d 718 (Ct. App. 1983) 7,8,13

O'Connor v. Johnson,
287 N.W.2d 400 (Minn. 1979) 7

State ex rel. Sowers v. Olwell,
64 Wash. 2d 828, 394 P.2d 681 (1964) 11

State v. Superior Court of Maricopa County,
128 Ariz. 253, 625 P.2d 316 (1981) 4,6

Zurcher v. The Stanford Daily,
436 U.S. 547, 98 S. Ct. 1970,
56 L. Ed. 2d 528 (1978) 7,10,12

Constitutional Provisions:

Constitution of the United States,
Fourth Amendment 7,12,13
Fifth Amendment 8
Sixth Amendment 2,5
Fourteenth Amendment 2,7

No. 83-1654

In The

Supreme Court of the United States

October Term, 1983

CRAIG MEHRENS,

Petitioner,

v.

THE STATE OF ARIZONA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS,
STATE OF ARIZONA,
DIVISION ONE

BRIEF IN OPPOSITION

Now comes the State of Arizona, Respondent, and prays this Court to deny Petitioner's Petition for a Writ of Certiorari to the Court of Appeals of the State of Arizona, Division One, for review of a judgment entered in the above-entitled cause on September 13, 1983.

JURISDICTION

Respondent accepts and adopts Petitioner's jurisdictional statement of this matter.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Sixth Amendment to the United States Constitution provides, in pertinent part:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

> . . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law. . . .

STATEMENT OF THE CASE

Ronald Anthony Wayman allegedly engaged in certain sexual conduct with his minor daughter, Sandra Marie Wayman,

in 1979. Subsequent thereto, she left Arizona to live in California. While Sandra Marie Wayman lived in California, Wayman wrote and mailed numerous letters to her in which, assertedly, the sexual conduct was discussed. According to Sandra, those letters featured statements by Wayman, "saying that he was sorry for what he had done and telling what he had done." In March, 1980, Sandra returned to her parents' home in Arizona, bringing the letters with her. On July 3, 1980, she again left home, but did not take the letters with her or give them to her father. One week later, a criminal complaint in this case was filed. A search warrant was issued to obtain certain incriminating items from the Wayman's residence, including these letters addressed to Sandra Marie Wayman. These letters, however, were not found in the search, because prior to the search, Wayman delivered these letters to Craig Mehrens, an attorney licensed to practice in Arizona.

Subsequently, a grand jury investigation convened. A subpoena duces tecum was issued to Ronald Wayman's attorney, Craig Mehrens, directing him to produce "any and all personal letters written to Sandra Marie Wayman by Ronald A. Wayman between August 1979 and March 1980 and delivered to Pomona, CA; Stanton, CA; and Roland Heights, CA." Mr. Mehrens refused to comply with the subpoena and moved to have it quashed on the grounds that it violated the attorney-client privilege. However, Mehrens delivered the subpoenaed documents to the trial court pending a ruling, and after a hearing on the matter, the motion was granted.

Thereafter, the State filed a Petition for Special Action in the Arizona Supreme Court to contest the ruling. Pursuant to the petition and over a vigorous objection by Mehrens, the trial court was ordered to "retain custody and control of

the subpoenaed documents during the pendency" of the special action. The Arizona Supreme Court accepted jurisdiction in the matter and issued its opinion on January 27, 1981. The Supreme Court affirmed the trial court's decision, holding that Mr. Mehrens could not be compelled to produce the letters pursuant to a subpoena duces tecum, but left unresolved the issue of whether the letters could be obtained by another means. *State v. Superior Court of Maricopa County*, 128 Ariz. 253, 625 P.2d 316 (1981).

Before the Supreme Court of Arizona issued a final mandate, however, Mr. Mehrens obtained a release of these letters in an *ex parte* appearance before the trial court on February 2, 1981. Mehrens was subsequently ordered to return the letters to the trial court, when the prosecutor objected to their earlier release. Counsel for Mehrens appeared before the trial court on February 2, 1981, and advised the court that Mehrens no longer had the documents in his possession. Mehrens ultimately returned the letters to the court, when a compliance hearing was scheduled.

The State then made a request to have the trial court release the letters. After hearing argument, the trial court denied the request and ordered Mehrens to pick up the letters before 9:00 o'clock the following morning, March 4, 1981.

While the letters were still being held by the trial court, the State obtained a warrant directed to a search of Mr. Mehrens on the morning that he was to pick up the letters at the courthouse. The search warrant authorized the seizure of "a sealed envelope containing personal letters written to Sandra Marie Wayman by Ronald A. Wayman."

On March 4, 1981, Craig Mehrens appeared before the trial court, obtained custody of the letters, and informed the trial

court that he anticipated that a search warrant would be served on him when he left court that morning. When Mehrens left the court chambers, two police officers served him with the search warrant. Mehrens refused to voluntarily comply with the warrant and his brief case containing the letters was then seized. The briefcase was taken to the prosecutor's office and opened. Inside was a manila envelope that was addressed to Judge French from Mr. Mehrens. The envelope was removed from the briefcase and identified as the item to be seized. No further inventory was done on the contents of Mr. Mehrens' briefcase. The envelope was opened and the letters addressed to Sandra Marie Wayman were found inside.

Mehrens, through counsel, then filed a motion to contravene the search warrant, challenging probable cause and reasonableness, and alleging a violation of his client's Sixth Amendment right to effective assistance of counsel. After an evidentiary hearing, Judge Stephen Scott ruled that the search warrant involved in Petitioner's matter fully complied with the requirements of probable cause and specificity; that the search warrant did not authorize a general, exploratory rummaging of Mehrens' law office; and that the incriminating letters were not protected by the attorney-client privilege from being seized pursuant to a valid search warrant. Judge Scott further ruled that the attorney-client privilege could not be used as a shield by Mr. Mehrens to the search warrant in question, because Ronald Wayman would not be privileged from having the letters seized pursuant to a valid search warrant:

> "The law seems clear that if an individual's privilege against self-incrimination would render that individual privileged from producing documents and/or evidence, then an attorney to whom such documents or evidence has been transferred to further his legal representation,

> would also be privileged from producing that document or evidence. That is the situation in the present case in relation to obtaining the documents pursuant to a subpoena, *State of Arizona ex rel. Hyder v. Superior Court of Maricopa County, Arizona, et al.*, (No. 15022, Supreme Court of Arizona, January 27, 1981). However, in the opinion of this court, Ronald Wayman himself would not be privileged from having the subject documents seized pursuant to a valid search warrant and, therefore, even though these documents were transferred to Mehrens in furtherance of Mehrens' legal representation of Wayman, the attorney-client privilege is not a valid shield to the search warrant in question.
>
> "The Supreme Court of the United States has stated:
>
> > '. . . pre-existing documents which could have been obtained by court process from the client when he was in possession may also be obtained from the attorney by similar process following transfer by his client in order to obtain more informed legal advice, *Fisher v. United States*, 425 U.S. 391, 403 (1976).' " (Petitioner's Appendix E).

A timely appeal was filed. Five issues were raised by Appellant on appeal, including (1) whether the trial court erred in finding probable cause to support the issuance of the search warrant, and (2) whether the attorney-client privilege protected these letters from seizure pursuant to a search warrant.

The Court of Appeals of Arizona, noting that Petitioner misconstrued the holding of the Supreme Court of Arizona in *State v. Superior Court of Maricopa County*, 128 Ariz. 253, 625 P.2d 316 (1981), held that there was probable cause for the issuance of the search warrant and that the attorney-client privilege did not attach to the letters. The attorney-client privilege did not bar the seizure of these letters pursuant to a valid search warrant. Since the letters could be seized from Wayman, they could likewise be seized from his

lawyer under a proper warrant. *Mehrens v. State*, ___ Ariz. ___, 675 P.2d 718 (Ct. App. 1983). Mr. Mehrens' petition for review was denied by the Arizona Supreme Court on January 10, 1984.

REASONS FOR DENYING THE WRIT

I

THE ARIZONA DECISION THAT THE EXECUTION OF A SEARCH WARRANT ON A NON-SUSPECT ATTORNEY'S BRIEFCASE FOR INCRIMINATING LETTERS AUTHORED BY HIS CLIENT TO A THIRD PERSON DOES NOT VIOLATE THE ATTORNEY-CLIENT PRIVILEGE IS ACCURATE AND CORRECT AND IS CONSISTENT WITH PREVIOUS OPINIONS FROM THIS COURT.

The Minnesota Supreme Court in *O'Connor v. Johnson*, 287 N.W.2d 400 (Minn. 1979), in granting a writ of prohibition, held that a search warrant based on probable cause for a non-suspect attorney's office was unreasonable, ". . . [I]n the light of the attorney-client privilege, client confidentiality, the work product doctrine, and the [criminal defendant's] constitutional right to counsel." The Supreme Court of Minnesota set forth a subpoena preference rule, recommending that law enforcement officers proceed by subpoena duces tecum in seeking documents held by a lawyer.

The Minnesota decision is at odds with this Court's holding in *Zurcher v. The Stanford Daily*, 98 S. Ct. 1970, 436 U.S. 547, 56 L. Ed. 2d 525 (1978), that the Fourth Amendment to the United States Constitution does not require a subpoena preference rule when law enforcement officers seek evidence in the possession of a non-suspect third party.

The Arizona decision in *Mehrens v. State*, ___ Ariz. ___, 675 P.2d 718 (Ct. App. 1983), is accurate and correct and

is in accord with earlier pronouncements from this Court. The Arizona court held that the attorney-client privilege did not attach to these letters and that the attorney-client privilege could not be used as a shield to bar seizure of this incriminating evidence pursuant to a valid search warrant:

> "to so hold would mean that a defendant could shield the evidence by the simple expedient of delivering it to his attorney." ___ Ariz. ___, 675 P.2d at 721.

The Arizona decision is consistent with the holding in *Fisher v. United States*, 425 U.S. 391, 96 S. Ct. 1569, 48 L. Ed. 2d 39 (1976), wherein this Court inquired whether the attorney-client privilege applied to documents in the hands of an attorney which would have been privileged in the hands of the client by reason of the Fifth Amendment:

> ". . . pre-existing documents which could have been obtained by court process from the client when he was in possession may also be obtained from the attorney by similar process following transfer by the client in order to obtain more informed legal advice." *Fisher v. U.S.*, 425 U.S. 391, 403, 96 S. Ct. 1569, 1577.

If the client could be compelled to produce incriminating evidence, then the attorney cannot refuse. Had a search warrant been served on Wayman when he was in possession of the letters, Wayman could not have used the attorney-client privilege to shield the seizure of these letters. Mehrens, as Wayman's attorney, stood in Wayman's shoes. *Fisher v. United States, supra.* Even though these letters were transferred to Mehrens in furtherance of Mehrens' legal representation of Wayman, the attorney-client privilege was not a shield against the seizure of these incriminating letters from Mehrens pursuant to a valid search warrant.

The policy behind the attorney-client privilege is to afford

the client freedom from fear of compulsory disclosure after consulting his legal advisor. The privilege is designed to facilitate the free exchange of information between the client and his attorney. The attorney-client privilege is not absolute and must be balanced against the public's interest in a criminal investigation process. No privilege attaches to a document merely by reason of its passage from an attorney to his client or vice versa, especially where the document, as here, existed prior to the formation of the attorney-client relationship. The attorney-client privilege does not give an attorney the right to withhold incriminating evidence that is given to him by his client, because it would be an abuse of the lawyer's professional responsibility to the court to knowingly take possession and secrete instrumentalities or evidence of a crime.

A client's delivery of documentary evidence to his attorney may be privileged, but not the object itself. A party is privileged from producing the evidence, but not from its production. *Johnson v. United States*, 228 U.S. 457, 33 S. Ct. 572, 57 L. Ed. 919 (1913). The attorney-client privilege cannot be used as a shield against a valid search warrant, when the attorney is required to voluntarily disclose the incriminating documents to the authorities after he has retained it for a reasonable time to aid him in preparing his client's case. Because the attorney-client privilege affords no protection to the incriminating letter, the privilege would not bar the seizure of the letter from Wayman or his attorney pursuant to a valid search warrant. To hold otherwise would provide a mechanism by which a lawyer could become a repository of the fruits or evidence of a crime. This would pervert the truth-seeking interests of the administration of justice and could allow the subjective ethical stance of a lawyer to

dictate what and when incriminating evidence would be disclosed to the prosecution.

The attorney-client privilege does not bar seizure of incriminating evidence from a lawyer pursuant to a valid search warrant, even though the attorney is a non-suspect third party and there is no reasonable expectation that the incriminating evidence will be destroyed. This Court held in *Zurcher v. The Stanford Daily*, 436 U.S. 547, 98 S. Ct. 1970, 56 L. Ed. 2d 528 (1978), that:

> "Valid warrants may be issued to search any property, whether or not occupied by a third party, at which there is probable cause that fruits, instrumentalities or evidence of a crime will be found." 436 U.S. 547, 554, 98 S. Ct. 1970, 1975.

The fact that the non-suspect third-party custodian of incriminating evidence is an attorney is inconsequential, when the attorney-client privilege offers no protection from a valid search warrant.

Police officers did not act unreasonably in seizing the briefcase from Mehrens. The police seized the briefcase from Mehrens, when he refused to voluntarily comply with the search warrant, and only after he was first searched. It was reasonable to assume that the letters would be in his briefcase, after it was determined that they were not on his person.

II

ARIZONA'S DECISION IS CORRECT AND ACCURATE AND IS CONSISTENT WITH THIS COURT'S HOLDING IN *FISHER V. UNITED STATES*, 425 U.S. 391, 96 S. Ct. 1569, 48 L. Ed. 2d 39 (1976).

This Court in *Fisher v. United States, supra*, recognized those policy considerations underlying the purpose of the attorney-client privilege:

> "However, since the privilege has the effect of withholding relevant information from the factfinder, it applies only where necessary to achieve its purpose. Accordingly, it protects only those disclosures—necessary to obtain informed advice which may have been made absent the privilege. . . . This court and the lower courts have thus uniformly held that pre-existing documents which may have been obtained by court process from the client when he was in possession may also be obtained from the attorney by similar process following transfer by the client in order to obtain more informed legal advice." 425 U.S. 391, 403, 96 S. Ct. 1569, 1577.

The Arizona Court recognized that a defendant could not shield incriminating evidence from a valid search warrant by simply delivering the incriminating evidence to his attorney. The letters were not protected by the attorney-client privilege and could be seized from the attorney under a proper warrant because they could be seized from Wayman himself.

These two decisions are compatible and need no further explanation. The attorney-client privilege is not absolute. It applies only where necessary to achieve its purpose. Incriminating evidence delivered to a criminal defense attorney by his client may be withheld by the lawyer for a reasonable time to aid him in preparing his client's case and then must be voluntarily given to the authorities. *State ex rel. Sowers v. Olwell,* 64 Wash. 2d 828, 394 P.2d 681 (1964). The attorney-client privilege does not protect incriminating evidence that the client had in his possession and that predates the attorney-client relationship. Otherwise, the client could use his attorney as a repository for incriminating evidence and shield the evidence by simply delivering it to his attorney. Since the attorney-client privilege does not protect pre-existing incriminating evidence that is given by the client to his attorney, this privilege should not bar the seizure of this evidence from either the client or the lawyer pursuant to a

valid search warrant. The seizure of this evidence through the use of a valid search warrant does not deprive the client of effective assistance of counsel, because counsel is not compelled to divulge the source of the incriminating evidence or his client's communications. The purpose of the attorney-client privilege is not subverted, when as here, counsel does not aid in the discovery or authentication of the incriminating documents.

Aiso, the warrant requirement of the Fourth Amendment of the United States Constitution, and not the attorney's ethical stance, protect against the harms that are assertedly threatened by warrants directing the search of attorneys' briefcases or offices:

> ". . . Further, the prior cases do no more than insist that the courts apply the warrant requirements with particular exactitude when First Amendment interests would be endangered by this search. . . . Properly administered, the preconditions for a warrant—probable cause, specificity with respect to the place to be searched and things to be seized, and overall reasonableness—should afford sufficient protection against the harms that are assertedly threatened by warrants for searching newspaper offices." *Zurcher v. The Stanford Daily*, 436 U.S. 547, 565, 98 S. Ct. 1970, 1981-82.

The detached and neutral magistrate can eliminate these suggested hazards by confining warrants to searches within reasonable limits and issuing search warrants on "probable cause", and "particularly describing the places to be searched and the person or things to be seized." *Zurcher v. The Stanford Daily, supra.*

III

THE FOURTH AMENDMENT WARRANT PROCESS PERMITS THE ISSUANCE OF ANTICIPATORY SEARCH WARRANTS AT A TIME PRIOR TO THE ACTUAL ARRIVAL OF THE MATTER TO BE SEIZED AT THE PREMISES.

The Arizona Court did not create a completely new rule of law when it held that the "prospective" or "anticipatory" search warrant below was valid under the Fourth Amendment:

> "The test to determine if probable cause exists for the issuance of a search warrant is the same for present as well as prospective warrants; namely, whether the evidence presented in support of the warrant creates a substantial probability that the seizable property will be located at the place authorized to be searched by the warrant." *Mehrens v. State,* ___ Ariz. ___, 675 P.2d 718, 721 (Ct. App. 1983).

An anticipatory search warrant is not a novel invention. This Court in *Katz v. United States,* 389 U.S. 347, 88 S. Ct. 507, 19 L. Ed. 2d 576 (1967), and in *Berger v. New York,* 388 U.S. 41, 87 S. Ct. 1873, 18 L. Ed. 2d 1040 (1967), indicated that it was constitutionally permissible to obtain a search warrant for the seizure of oral communications through the use of electronic surveillance:

> ". . . it is clear that this surveillance was no narrowly circumscribed that a duly authorized magistrate, properly notified of the need for such investigation, specifically informed of the basis on which it [the electronic surveillance] was to proceed, and clearly apprised of the precise intrusion it would entail, could constitutionally have authorized . . . the . . . search and seizure . . ." *Katz v. United States,* 389 U.S. 347, 354, 88 S. Ct. 347, 507, 513.

This acknowledgment that warrants may be directed to unspoken words that would not be in existence until vocalized

in the future suggests that search warrants may be prospective or anticipatory to the seizure of items.

A search warrant may be issued in advance of the time that the incriminating document may be seized on particularly described premises. In the case below, a search warrant was issued during the morning hours of March 4, 1981. The search warrant directed the seizure of "a sealed envelope containing personal letters written to Sandra Marie Wayman by Ronald A. Wayman", which the magistrate had found probable cause to believe were on the persons of "Craig Mehrens of his agent" and on the premises known as "Maricopa Superior Court Building, 101 West Jefferson, East Court Building".

The scope of the search warrant was limited, reasonable and not general. The search warrant did not authorize exploratory rummaging. It particularly described the place and person to be searched and items to be seized. The affidavit established that the letters would be subject to seizure at a reasonable time in the future. The search warrant was issued during the morning hours of March 4, 1981, and the affidavit indicated that, by court order, Mr. Mehrens would have to "obtain the sealed documents no later than 9 a.m. on March 4, 1981, from Judge French's court". This anticipatory search warrant did not call for execution beyond a reasonable time. The affidavit did not indicate that there would be an undue passage of time between the issuance and execution of the search warrant that would raise the danger that the letters described in the affidavit would no longer exist on the premises to be searched. There was probable cause to believe that Mr. Mehrens would comply with Judge French's order and reclaim the sealed envelope by 9 a.m. on March 4, 1981. There was probable cause to believe that the search warrant

would not be executed until Mehrens went to "Judge French's court" and took custody of the incriminating letters. There was no danger that the letters would be seized at a time or place different from that indicated in the affidavit.

This Court should deny the Petition for Writ of Certiorari, because this Court recognized the validity of "prospective" or "anticipatory" search warrants in *Katz v. United States, supra.* The Arizona Court's opinion was accurate and correct and consistent with this Court's opinion in *Katz v. United States, supra.*

CONCLUSION

For all these reasons, Petitioner's Petition should be denied.

Respectfully submitted,

THOMAS E. COLLINS
MARICOPA COUNTY ATTORNEY

Joseph L. Brownlee
Deputy County Attorney

By _____
Joel M. Glynn
Deputy County Attorney

By _____
K. C. Scull
Deputy County Attorney